

FILED
ASHEVILLE, N. C.

SEP 16 2005

U.S. DISTRICT COURT
W. DIST. OF N. C.

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

IN RE: REAL PROPERTY LOCATED AT)
STREET ADDRESSES 2294, 2296, 2298,)
and 2300 U.S. HIGHWAY 70,)
SWANNANOA, BUNCOMBE COUNTY,)
NORTH CAROLINA, PARCEL)
IDENTIFICATION NUMBER 9689-19-70-)
1523-000, BEING 1.347 ACRES, MORE OR)
LESS, AND MORE PARTICULARLY)
DESCRIBED IN A DEED RECORDED AT)
BOOK 2138, PAGES 287 AND 288, IN THE)
BUNCOMBE COUNTY, NORTH)
CAROLINA, LAND REGISTRY)

**ORDER
AND LIS PENDENS**

FILE IN GRANTOR INDEX UNDER:

____JOHN JAY KELLY____
____JOHN J. KELLY____
____JANEY WOOD KELLY____

WHEREAS, the United States of America, by and through Special Agent Mark Aysta, Federal Bureau of Investigation, has presented an affidavit to the Court alleging that the above-captioned property facilitated the distribution and dispensing of controlled substances in violation of 21 U.S.C. §801 *et seq.*; and,

WHEREAS, the Court, having reviewed the affidavit, finds that there is probable cause to believe that the property facilitated the distribution and dispensing of controlled substances in violation of 21 U.S.C. §801 *et seq.*; and,

WHEREAS, upon this finding of probable cause, the property may be subject to criminal or civil forfeiture to the United States pursuant to 21 U.S.C. §§ 881 and 853, and the government is entitled to record a *lis pendens* to give public notice of the government's forfeiture interest and potential civil and/or criminal forfeiture claim against the property; and,

THEREFORE, the United States is directed forthwith to file this Order and Lis Pendens with the appropriate state or local public depository to prevent the flight or transfer of the property so that the United States may initiate action to adjudicate forfeiture of the property; and,

ALL WHO READ THIS ORDER AND LIS PENDENS TAKE NOTICE that the property is subject to forfeiture to the United States in a present or future criminal or civil *in rem* action before this Court, and any person who has a question as to this action should contact:

United States Attorney
for the Western District of North Carolina
Attn: Thomas R. Ascik, Assistant United States Attorney
100 Otis Street
Asheville, North Carolina
(828) 271-4661

This the 16th day of September, 2005.


UNITED STATES MAGISTRATE JUDGE

TO THE RECORDER OF THIS INSTRUMENT: MAIL ANY AND ALL RECORDED COPIES TO THE UNITED STATES ATTORNEY FOR THE WESTERN DISTRICT OF NORTH CAROLINA AT THE ABOVE ADDRESS.